

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 05/29/01?
b. The request was received on 05/14/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. Initial TWCC-60 and Letter Requesting Dispute Resolution dated 06/28/02
 - b. HCFA-1450s
 - c. EOBs
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Based on Commission Rule 133.307 (g)(4), the Division notified the insurance carrier Austin Representative of their copy of the request on 07/05/02. The Respondent did not submit a response to the request. The "No Response Submitted" sheet is reflected in Exhibit II of the Commission's case file.
3. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: letter dated 06/28/02
"Texas Administrative Code Section 133.304 specifically provides 'the explanation of benefits **shall include the correct payment exception codes** required by the Commission's instructions.'...Based upon the initial denial presented by the Carrier, it is the requestor's position that the Carrier is required to pay the entire amount in dispute."

IV. FINDINGS

1. Based on Commission Rule 133.307(d)(1&2), the only date of service (DOS) eligible for review is 05/29/01.
2. The provider, an ambulatory surgery center, billed a total of \$4,416.74 on the DOS in dispute.
3. The carrier reimbursed \$2,236.00 no denial codes were noted on the EOB.
4. The total amount in dispute per the TWCC-60 is \$2,125.74.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401(a)(4) states ASCs, “shall be reimbursed at a fair and reasonable rate...”

Section 413.011(b) of the Texas Labor Code states, “Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

Commission Rule 133.304(i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. The carrier has not submitted a response to the dispute.

Commission Rule 133.307(g)(3)(D) requires the provider to supply documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement. The provider has not submitted documentation that provides information described above. The provider’s position of entitlement to the amount requested is based on the Carrier not submitting an EOB with the proper denial code(s). However, regardless of the carrier’s lack of response or denial codes, under the Act, there must be specific statutory authorization to create liability through waiver. The burden is on the provider to show that the amount of reimbursement requested is fair and reasonable and conforms to the criteria identified in Sec. 413.011(b) of the Texas Labor Code.

The provider did not submit documentation that discusses, demonstrates, and justifies that the payment amount sought is a fair and reasonable rate of reimbursement or that the amount sought conforms the criteria identified in Sec. 413.011(b) of the Texas Labor Code. Therefore, based on the documentation available for review, the Requestor has not established entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this 28th day of August 2002.

Larry Beckham
Medical Dispute Resolution Officer
Medical Review Division

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers’ Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.